IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORIGINAL SIDE

WRIT PETITION NO. 429 OF 2007

ANAND HIRALAL DARGAR .. PETITIONERS

Vs.

THE CHIEF EXECUTIVE
OFFICER, SRA & ORS. .. RESPONDENTS

Mr. J. P. Sen I/b M/s. Shah & Sanghavi for petitioners
Mr. Abhijeet Wagh i/b Utangale & Co. for R-1
Mr. S. K. Nair for R-3
Mr. Y.S. Jahagirdar with R. Matkar for R-4
Mr. D.D. Madan with S.A. Sawant for R-5

CORAM:-SMT. RANJANA DESAI &

D. B. BHOSALE, JJ.

DATED:-24/4/2007

P.C.

. The petitioner is a builder. His grievance is that despite the requisite number of members of respondent 4 society, having given their consent in favour of the petitioner in respect of development of property bearing C.S. Nos. 205 (part), 209 (part), 231 and 232 of Worli Division, G-South Ward, and though the petitioner's proposal for the redevelopment of said property is pending with respondent 2 and inspite of the requisite number of

the members of the respondent having withdrawn their consent in favour of respondent 5, respondent 2 has not issued Letter of Intent.

2. We have heard the learned counsel for the petitioner and we have also heard learned counsel for respondent 1.

3. Our attention is drawn to the affidavit of Mr. Ajay Desai, Director of M/s. Spark Developer, respondent 5 herein. It is stated in the affidavit that SRA has issued letter of intent on 4/8/07 and I.O.A. on 6/11/06 and scheme is in advance stage. It is further stated that 125 hutments are shifted. Transit camp construction work is in progress and at such a belated stage the petitioner has filed this petition only with a view to creating hurdles in the scheme.

4. Our attention is also drawn to the affidavit of Shri Vinayak Janardhan Patil, Secretary of respondent 4. Paragraph 5 reads as under:

> . "Thereafter on 12/7/2004 a Special General Body meeting was held in which 133 members were present. The entire

issue was discussed and all the facts were placed before the General Body. Thereafter, by resolution no. 1, the
society permanently cancelled and revoked all the old new agreements, power of attorney, authorisation letters, affidavits and consent letters as well as the individual agreements of hutment dwellers made in favour of M/s. Santosh Anand and Associates, its partners Anand Dargar and Santosh Kemnike as well as Architect Mr. Jhon Dentas. I crave leave to refer to and rely upon the said minutes of the said general body meeting held on 12/7/04. Hereto annexed and marked Exhibit 'R-6' is a copy of the minutes of the said general body meeting held on 12/7/2004. Thereafter, by four letters dated 13/7/2004 S.R.A. B.E.S.T., Hereto annexed and marked Exhibit 'R-7' is the copy of the said letter dated 13/7/204. By separate letters dated 13/7/2004 the M.M.C. and Ward Officer M.M.C. were intimated about the termination of the Petitioner and the

firm Santosh Anand and Associates. I crave leave to refer to and rely upon the said letters 13/7/2004. On 14th July, 2004 the office bearers of the society through their Advocate issued a detailed termination letter to the petitioner himself. Hereto annexed and marked Exhibit 'R-8' is a copy of the said termination letter dated 14 July, 2004. Immediately thereafter a second general meeting was held on 14/7/2004 and the Respondent no. 5 was appointed as a developer of the scheme. I crave leave to refer to and rely upon the minutes of the said Special General Body Meeting dated 14/7/04. The termination was also published in Free Press Journal on 10th December, 2004 on account of some nuisance created by the Petitioner and his associates. Hereto annexed and marked Exhibit 'R-9' is a copy of the said Public Notice."

5. It is also stated in the affidavit that on 4/8/06, SRA has issued L.O.I. in favour of

respondent 5. It is also stated in the affidavit that the work of shifting of 125 hutment dwellers is already over. This affidavit is filed on 7th March, 2006 and on the very same day it was served on the petitioner. However, till date no rejoinder is filed by the petitioner.

6. In the circumstances of the case, therefore, it is not possible for us to entertain this petition. Petition is dismissed.

JUDGE.

JUDGE.